


The applicant argues that Nichtberger system does not use a *limited direct identification of the consumer* as claimed in amended claim 1, because the system identifies the customer's account with name, address and telephone number. If, the purpose of the limited direct identification is to exclude personal data including, name, address, telephone number etc., it is not evident and not recited clearly in claim 1. Since only after Claim 27 the term "*limited direct identification*" is rendered the definition wherein the consumer's name is excluded. Thus the examiner has interpreted "*limited direct identification*" in claim 1 as including the consumer's name. Therefore, the applicant's argument that claim 1 is not taught or hinted by the Nichtberger patent is not convincing and the subject claims 1-25 and 27-41 stand rejected.

Independent claim 1 has been amended to respond to the Examiner's comments in the parent case so that in the account maintaining step, "said account having a limited direct identification of said consumer with said account to exclude identification of said consumer by name...". Hence the Examiner's rejection of the claim by his interpretation of "limited direct identification" has been vitiated and the claim should be allowed. Claims 2-26 and 28-41 should also be allowed for at least being dependent upon allowable subject matter.

Independent claim 59 (claim 88 in the parent case) had also been rejected under 35 U.S.C. §102(b) for anticipation by the Nichtberger patent. The Examiner identified each step in claim 88 with a portion from the Nichtberger patent. However, in the claim 88 step, "accepting offered promotions of at least one item from a promoter of said item over said communications network;" the Examiner identified the step with the customer, i.e., "customer selects coupons to be redeemed...". To avoid this possible misinterpretation, claim 59 has been rewritten so that this step reads, "accepting offered promotions over said communications network of at least one item for presentation to consumers, said offered promotions from a promoter of said item." Such a step is found in the description of the relationship between the discounter and the DAP computer 11 from page 13, line 17 to page 15, line 32 of the applicant's specification. Independent claim 59 should be allowable. Claims 60-89 should also be allowed for at least being dependent upon allowable subject matter.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned attorney at (650) 326-2400.

Respectfully submitted,


Gary T. Aka
Reg. No. 29,038

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: (415) 576-0200
Fax: (415) 576-0300
GTA:dmc
PA 3027766 v1

650 326 2400